Docket No.: TJONES-001
Inventor: Trevor Jones

REMARKS

The rejection of Claims 1-3, 5 and 7 under 35 USC 102(b) as being unpatentable over Denker (2,677,502) is respectfully traversed, and a reconsideration thereof is respectfully requested.

Regarding the rejection of Claim 1, Denker ('502) does not disclose open area percentage and the effect of varying open area percentage has on the degree of traction. More specifically, Denker ('502) does not disclose an open area percentage of a range from about 40% to about 60%, which has been found to provide the highest degree of traction on low coefficient of friction surfaces, such as ice. Further yet, the traction device 10 of Denker does not disclose any dimensional relationships of the openings 15, such as LWD, SWD, LWO and SWO of the traction device 10, which is a further indication of the failure of Denker to consider the effect that open area percentage has on the degree of traction provided by the traction device 10.

The Federal Circuit has held in W.L. Gore & Assocs. v. Garlock, Inc., 220 USPQ 303, 313 (Fed. Cir. 1983) that, "[a]anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration."

Therefore, the applicant respectfully submits the rejection of Claim 1 under 35 USC 102(b) over Denker (2,677,502) is improper due to the lack of anticipation thereby pertaining to the variance of open area percentage of the traction device and the effect of

varying the open area percentage has on the traction provided by the traction device, and further, the lack of anticipation of Denker having an open area percentage range of about 40% to about 60%. As such, withdrawal of the 35 USC 102(b) rejection is respectfully requested.

Regarding the rejection of Claim 2; Claim 2, as amended over comes the 35 USC 102(b) rejection because it has been amended to include said sheet of expanded metal having an open area percentage from about 40% to about 60%. Support for the amendment is found at Claim 7 and at paragraphs [034] and [035]. As previously stated supra, Denker (2,677,502) does not disclose open area percentage, nor the effect open area percentage has on the degree of traction provided by the traction device, nor does it disclose an open area percentage range from about 40% to about 60%. As such, Claim 2 as amended is submitted to be a-fortiori, patentable as applied above.

Regarding the rejection of Claims 3 and 5, the claims add additional features to the independent Claim 2 as amended and recited above and thus are submitted to be a-fortiori, patentable.

The rejection of Claims 4, 6 and 8-14 under 35 USC 103(a) as being unpatentable over Denker (2,677,502) is respectfully traversed, and a reconsideration thereof is respectfully requested.

Docket No.: TJONES-001
Inventor: Trevor Jones

Regarding the rejection of Claim 4, the claim adds additional features to the independent Claim 2 as amended and recited above and thus is submitted to be a-fortiori, patentable.

Regarding the rejection of Claim 6, the claim adds additional features to the dependent claim 5 as recited above and thus is submitted to be a-fortiori, patentable.

Regarding the rejection of Claim 8 under 35 USC 103(a) as being unpatentable over Denker (2,677,502) because of examiner's argument that "in case of a small scale production, it would have been obvious to one skilled in the art form the traction sheets of Denker by expanding the stock material individually and manually so as to avoid cost of expensive mass production equipment. Accordingly, such manual and individual sheet forming operations would be more likely to cause inconsistencies in the production, i.e. variations in open area percentage in individual sheets, as broadly recited in the instant claim", is improper under 35 USC 103(a).

35 USC 103(a) states in part, "... patentability should not be negative in which the invention was made." The examiner in making the above recited argument, has proposed one possible method of many possible methods of making the instant invention in an attempt to negate the patentability of the claimed invention as recited in instant Claim 8. Additionally, Claim 8 is not attempting to seek patent coverage on variances present in articles of manufacture due to manufacturing tolerances. Rather, the intent of

Docket No.: TJONES-001
Inventor: Trevor Jones

Claim 8 is to seek patent coverage on providing two or more traction mats of the instant invention which purposefully have been manufactured to have different open area percentages to provide a user with a choice of a degree of traction which is best suited for the particular situation.

Regarding the rejection of claims 9-14, the claims add additional features to independent Claim 8 as recited above and thus are submitted to be a-fortiori, patentable.

In view of the above, it is respectfully submitted that:

Claims 1-14, as amended, recite distinctions that are of patentable merit under 35 USC 102(b) and under 35 USC 103(a) for the independent claims and thus for each dependent claim as well. Claims 1-14 are in condition for allowance. Reconsideration and withdrawal of the rejections are requested. Allowance of claims 1-14 at an early date is solicited.

Respectfully submitted:

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